

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

PATRINA DRANE,

Petitioner,

Case No. 3:24-cv-202

v.

SHERIFF ROB STRECK,

Respondent.

District Judge Michael J. Newman
Magistrate Judge Caroline H. Gentry

ORDER: (1) ADOPTING THE REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (Doc. No. 5); (2) DISMISSING WITHOUT PREJUDICE THE PETITION FOR A WRIT OF HABEAS CORPUS (Doc. No. 1); (3) DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*; (4) AND TERMINATING THIS CASE ON THE DOCKET

Petitioner Patrina Drane, a pre-trial detainee in the Montgomery County Jail, brings this case *pro se*.¹ Liberally construing her petition in her favor, she seeks habeas corpus relief under 28 U.S.C. § 2241. *See* Doc. No. 1; *see also Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (“A document filed *pro se* is to be liberally construed[.]” (cleaned up)).

The Court has reviewed the Report and Recommendation of Magistrate Judge Caroline H. Gentry (Doc. No. 5) to whom this case was referred pursuant to 28 U.S.C. § 636(b). Petitioner has not filed objections to the Report and Recommendation and the time for doing so under Fed. R. Civ. P. 72(b) has expired.

Upon careful review of the foregoing, the Court determines that the Report and Recommendation should be **ADOPTED**. Consequently, the petition is **DISMISSED WITHOUT**

¹ The petition names two additional individuals as petitioners. Doc. No. 1 at PageID 1. The Magistrate Judge determined that these two individuals cannot appear on Petitioner’s behalf in this case. Doc. No. 3 at PageID 17-18. In the absence of objections to this conclusion, and for reasons set forth by the Magistrate Judge, the Court agrees that Patrina Dane alone has status as the sole Petitioner in this case. *Id.*

PREJUDICE for failure to prosecute and as premature. Because Petitioner has failed to make a substantial showing of the denial of a constitutional right and because reasonable jurists would not disagree with the Magistrate Judge's conclusions, *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000), Petitioner is **DENIED** any requested certificate of appealability and is **DENIED** leave to proceed *in forma pauperis* on appeal.²

IT IS SO ORDERED.

October 18, 2024

s/Michael J. Newman

Hon. Michael J. Newman
United States District Judge

² Although the Report and Recommendation declined to address whether a certificate of appealability should issue, it did not consider that a state pre-trial detainee, like Petitioner, *see* Doc. No. 1 at PageID 1, must obtain a certificate of appealability in order to proceed on appeal. *See Winburn v. Nagy*, 956 F.3d 909, 911-12 (6th Cir. 2020).